

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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03-MDL-1570 (GBD)(SN)

In Re:

TERROR ATTACKS ON  
SEPTEMBER 11, 2001

**SUDAN NOTICE  
OF AMENDMENT**

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This document relates to:

*Ashton, et al. v. al Qaeda Islamic Army, et al.*, Case No. 02-cv-6977 (GBD)(SN)

*Bauer, et al. v. al Qaeda Islamic Army, et al.*, Case No. 02-cv-7236 (GBD)(SN)

Plaintiffs file this Notice of Amendment with respect to the underlying Complaint in the above-referenced matter, ECF No. 3237, as permitted and approved by the Court's Order of December 1, 2020, ECF No. 6547. Upon the filing of this Notice of Amendment, the underlying Complaint is deemed amended to add the individuals listed below (the "New Plaintiffs") as plaintiffs raising claims against the Republic of the Sudan. The underlying Complaint is deemed amended to include the factual allegations, jurisdictional allegations, and jury trial demand, as indicated below, of (a) the Consolidated Amended Complaint as to the Republic of the Sudan ("SCAC"), ECF No. 6539, or (b) the *Ashton* Amended Complaint as to Sudan Defendant in *Ashton v. the Republic of the Sudan*, No. 02-cv-6977, ECF No. 6537 (in 03-md-1570)(hereinafter, the "*Ashton* Sudan Amended Complaint"), as well as all causes of action specified below. The amendment effected through this Notice of Amendment supplements by incorporation into, but does not displace, the underlying Complaint. This Notice of Amendment relates solely to the Republic of Sudan and not apply to any other defendant.

Upon filing this Sudan Notice of Amendment, each New Plaintiff is deemed to have adopted all factual and jurisdictional allegations of the complaint that has been joined as

specified below; all prior filings in connection with that complaint; and all prior Orders and rulings of the Court in connection with that complaint.

### CAUSES OF ACTION

Each New Plaintiff hereby adopts and incorporates herein by reference the following factual allegations, jurisdictional allegations, and jury trial demand in the following complaint [**check only one complaint**] and the following causes of action set forth in that complaint:

- ☐ **Consolidated Amended Complaint as to the Republic of the Sudan (“SCAC”), ECF N. 6539 (check all causes of action that apply):**
  - ☐ COUNT I – Claims under Section 1605A(c) of the Foreign Sovereign Immunities Act, 28 U.S.C. § 1605A(c), on behalf of all Plaintiffs granted a private right of action under 28 U.S.C. § 1605A.<sup>1</sup>
  - ☐ COUNT II – Claims under Sections 1605A(d) of the Foreign Sovereign Immunities Act, 28 U.S.C. § 1605A(d), on behalf of all Plaintiffs granted a private right of action under 28 U.S.C. § 1605A.<sup>2</sup>
  - ☐ COUNT III – Aiding and Abetting and Conspiring with Al Qaeda to commit the September 11<sup>th</sup> Attacks upon the United States in violation of 18 U.S.C. § 2333(d) (JASTA), on behalf of all “U.S. National” Plaintiffs.<sup>3</sup>
  - ☐ COUNT IV – Aiding and Abetting and Conspiring with Al Qaeda to commit the September 11<sup>th</sup> Attacks upon the United States in violation of 18 U.S.C. § 2333(a), on behalf of all “U.S. National” Plaintiffs.

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<sup>1</sup> Section 1605A of the Foreign Sovereign Immunities Act grants a right of action to (1) nationals of the United States, (2) members of the armed forces, (3) employees of the U.S. government (including individuals performing a contract awarded by the U.S. government) acting within the scope of employment, and legal representatives of persons described in (1), (2), or (3).

<sup>2</sup> See preceding footnote.

<sup>3</sup> The causes of action pursuant to the ATA, 18 U.S.C. § 2331 et seq., are asserted on behalf of Plaintiffs who are U.S. Nationals; estates, heirs, and survivors of U.S. Nationals; U.S. Nationals who are members of a putative class represented by such Plaintiffs; Plaintiffs who are subrogated to the rights of U.S. Nationals who incurred physical injuries to property and related losses as a result of the September 11<sup>th</sup> attacks; and Plaintiffs who are assignees of U.S. Nationals killed or injured in the September 11<sup>th</sup> attacks; and Plaintiffs who are assignees of U.S. Nationals killed or injured in the September 11<sup>th</sup> attacks. The term “U.S. National Plaintiffs” in the context claims under JASTA or the ATA refers to all such parties.

- ☐ COUNT V – Committing actions of international terrorism in violation of 18 U.S.C. § 2333, on behalf of all “U.S. National” Plaintiffs.<sup>4</sup>
- ☐ COUNT VI – Wrongful death, on behalf of all Plaintiffs bringing Wrongful Death claim.
- ☐ COUNT VII – Negligence, on behalf of all Plaintiffs.
- ☐ COUNT VIII – Survival, on behalf of all Plaintiffs bring wrongful death claims.
- ☐ COUNT IX – Alien Tort Claims Act, on behalf of all Alien National Plaintiffs.<sup>5</sup>
- ☐ COUNT X – Assault and Battery, on behalf of all Plaintiffs bringing wrongful death and personal injury claims.
- ☐ COUNT XI – Conspiracy, on behalf of all Plaintiffs.
- ☐ COUNT XII – Negligent and/or intentional infliction of emotional distress on behalf of all Plaintiffs.
- ☐ COUNT XIV – Liability pursuant to Restatement (SECOND) of Torts § 317 and Restatement (THIRD) of Agency § 7.05: Supervising Employees and Agents, on behalf of all Plaintiffs.
- ☐ COUNT XV – Liability pursuant to Restatement (SECOND) of Torts § 317 and Restatement (THIRD) of Agency § 7.05: Hiring, Selecting, and Retaining Employees and Agents, on behalf of all Plaintiffs.
- ☐ COUNT XVI – 18 U.S.C. § 1962(a)-(d) – Civil RICO, on behalf of all Plaintiffs.
- ☐ COUNT XVII – Trespass, on behalf of all Plaintiffs asserting claims for property damage and economic injuries.
- ☐ COUNT XVIII – Violations of international law, on behalf of all Plaintiffs.

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<sup>4</sup> See preceding footnote.

<sup>5</sup> The causes of action pursuant to the Alien Tort Claims Act (ATCA), 28 U.S.C. § 1350, are asserted on behalf of Plaintiffs who are Alien Nationals; estates, heirs, and survivors of Alien Nationals who are not themselves U.S. Nationals; Alien Nationals who are members of a putative class represented by such Plaintiffs; subrogated to the rights of Alien Nationals who incurred injuries to property and related losses as a result of the September 11<sup>th</sup> attacks; and assignees of Alien Nationals killed or injured in the September 11<sup>th</sup> attacks.

■ ***Ashton Sudan Amended Complaint, ECF No. 6537 (check all causes of actions that apply):***

- First Cause of Action to Recover for Personal Injury and Wrongful Death Damages Pursuant to Section 1605A of the Foreign Sovereign Immunities Act, 28 U.S.C. § 1605A.
- Second Cause of Action to Recover Personal Injury and Wrongful Death Damages Pursuant to Section 1605B of the Foreign Sovereign Immunities Act, 28 U.S.C. § 1605B (JASTA) and the Anti-Terrorism Acts.
- Third Cause of Action for Personal Injury and Wrongful Death Damages Pursuant to State Tort Law.
- Fourth Cause of Action for Personal Injury and Wrongful Death Damages Pursuant to the Alien Tort Claims Act.
- Fifth Cause of Action for Punitive Damages.
- Sixth Cause of Action for Property Damage.

**IDENTIFICATION OF NEW PLAINTIFFS**

Each New Plaintiff is or was a survivor of a person who died due to the terrorist attacks of September 11, 2001. For each New Plaintiff, the following chart list the New Plaintiff's name, the New Plaintiff's residency and nationality, the name of the New Plaintiff's deceased family member, the New Plaintiff's relationship to the decedent, and the paragraph(s) of the underlying Complaint discussing the decedent and/or the decedent's estate.

|   | New Plaintiff's Name<br>(alphabetical by last name) | New Plaintiff's State of Residency at Filing (or death) | New Plaintiff's Citizenship/ Nationality on 9/11/2001 | 9/11 Decedent's Name | New Plaintiff's Relationship to 9/11 Decedent | Paragraphs of Complaint Discussing 9/11 Decedent |
|---|---|---|---|----------------------|---|--|
| 1 | Bharvaney, Est. of Govind                           | N/A   | Thailand  | Anil T. Bharvaney    | Parent  | <i>Bauer</i> <sup>1</sup> action ¶ 27            |
| 2 | Bharvaney, Kishore                                  | N/A   | Thailand  | Anil T. Bharvaney    | Sibling                                       | <i>Bauer</i> action ¶ 27                         |
| 3 | Bharvaney, Savitri                                  | N/A   | Thailand  | Anil T. Bharvaney    | Parent  | <i>Bauer</i> action ¶ 27                         |

<sup>1</sup> *Bauer, et al. v. al Qaeda Islamic Army, et al.*, Case No. 02-cv-7236 (GBD)(SN), herein referred to as *Bauer* action, was consolidated into the Ashton action in the Ashton First Amended Consolidated Master Complaint filed on 08/01/2003, ECF No. 32.

Dated: October 20, 2021

Respectfully submitted,

BAUMEISTER & SAMUELS, P.C.

/s/ Dorothea M. Capone  
COUNSEL FOR PLAINTIFFS  
140 Broadway, 46<sup>th</sup> Floor  
New York, NY 10005  
Phone: (212) 363-1200  
Email: [tcapone@baumeisterlaw.com](mailto:tcapone@baumeisterlaw.com)